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GAMBLING COMMISSION STATE COMMASHLE GALODIVISION GAMBLING COMMISSION

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OTC / LICENSING

NO. CR 2013-00596

In the Matter of the Suspension or Revocation of the License to Conduct Gambling Activities of: ) SETTLEMENT ORDER McCoy's Cavern Olympia, Washington, Licensee.

This Settlement Order is entered into between the Washington State Gambling Commission and McCoy's Cavern. Chad Standifer, Assistant Attorney General, and Melinda Froud, Lead Staff Attorney, represent the Commission. Ian Abel, owner, represents the licensee.

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The Washington State Gambling Commission issued McCoy's Cavern, organization number 00-17853 the following license:

Number 05-09754, authorizing Class "A" Punchboard Pull-Tab activity.

The license expires on December 31, 2013, and was issued subject to the licensee's compliance with state gambling laws and regulations.

II.

David Trujillo, Interim Director of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

## SUMMARY:

The licensee failed to timely submit its Punchboard/Pull-Tab Activity reports for the third and fourth quarters of 2012. This is the fourth time in the last five reporting cycles that the licensee has filed to timely submit its Activity Reports. In addition, this violates a Settlement Order signed by the owner on May 30, 2012, for the same violation.

## VIOLATIONS:

1) RCW 9.46.075 Denying, suspending, or revoking a license or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: (The following subsection applies.)

GAMBLING COMMISSION

(1) Violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

2) WAC 230-03-085 Denying, suspending, or revoking a license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

- (1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.
- (3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level; or
- (7) Fails to provide us with any information required under Commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us.
- 3) WAC 230-14-284 Activity reports for punchboard and pull-tab licensees
  Punchboards and pull-tab licensees must submit an activity report to the Commission. Licensees
  must complete the report in the format we require and must:
  (The following subsections apply.)
- (1) Cover the periods: (a) January 1 through June 30; and (b) July 1 through December 31; and
- (2) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period.

The licensee failed to timely submit its Punchboard/Pull-Tab Activity Reports for the third and fourth quarters of 2012, within 30 days following the end of the period for which they were made, in violation of WAC 230-14-284. In addition, this violates the Settlement Order signed on May 30, 2012. This is the fourth time in the last five reporting cycles that the licensee has filed to timely submit its Activity Reports. Therefore, the licensee has demonstrated willful disregard for complying with state administrative rules. Grounds, therefore, exist for the suspension or revocation of McCoy's Cavern license to conduct gambling activities, under RCW 9.46.075(1) and WAC 230-03-085(1), (3) and (7).

IV.

The Commission alleges that the facts and violations specified in paragraph III above constitute grounds to suspend or revoke McCoy's Cavern's license under RCW 9.46.075(1) and WAC 230-03-085(1), (3) and (7).

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Ian Abel, Owner, acknowledges that he received the Notice of Administrative Charges issued in this case, and understands the facts and violations contained in it. On April 30, 2013, the licensee sent its request for hearing, and has now submitted its activity report for the third and fourth quarters of 2012.

The licensee has waived its right to a hearing, based on the terms and conditions of this Settlement Order and agrees to the following terms and sanctions:

- 1) The licensee's gambling license is suspended for a period of twenty (20) days, provided that:
  - a) Three (3) days of the suspension shall not be currently served, but shall be deferred for one year, subject to the following: The licensee agrees not to violate the terms of this Settlement Order, or any of Washington's gambling statutes or regulations during the deferral period.
  - b) If the licensee violates this Settlement Order or gambling statutes or regulations, and if the violation is the type that warrants the filing of administrative or criminal charges, then the Director may impose the three-day deferred suspension of the current gambling licenses and any subsequently acquired gambling licenses.
  - c) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this agreement, has discretion to determine whether the licensee has violated any term of this agreement. In the event the Director determines that a violation of this agreement has occurred, he may suspend the license(s) issued to the licensee for up to three days, by mailing or delivering a Notice of Order of Administrative Charges to the licensee. In addition to the consequences of the new violation, the deferred sentence shall also be served. The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.
- 2) The licensee has chosen to serve the remaining twenty (20) days of the suspension, which includes three (3) days from a previous settlement order signed on May 30, 2012.
  - i. The suspension period begins at 8:00 a.m. on Wednesday, May 15, 2013, and runs through Monday, June 3, 2013.
  - ii. During this period of suspension, <u>no gambling activities shall take place at the licensed premises.</u>
  - iii. The licensee may resume its gambling activities at 8:00 a.m. on Tuesday, June 4, 2013.

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3) The signed Settlement Order must be received by Commission staff on or before May 10, 2013, and mailed to Commission Headquarters at the following address:

Washington State Gambling Commission Attention: Communications and Legal Division P.O. Box 42400 Olympia, WA 98504-2400

or delivered (in person or via private courier) to the following address:

(Date)

Attention: Communications and Legal Division – Fines 4565 7<sup>th</sup> Avenue SE; Third Floor Lacey, WA 98503

DATED this

day of

2013

Administrative Law Judge

APPROVED FOR ENTRY:

APPROVED AS TO FORM:

Ian Abel

Owner, McCoy's Cavern

Chad Standifer, WSBA# 29724

Assistant Attorney General, Representing the Washington State Gambling

Commission

Melinda A. Froud, WSBA# 26792

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Lead Staff Attorney,

Washington State Gambling Commission

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